(1)

Supreme Court, U.S.
FILED
OCT 3 1988
JOSEPH E. SPANIOL, JR.
CLERK

88-823

NO.

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1988

DR. ROBERT E. PITTS, PRO SE PETITIONER

V.

TURNER AND BOISSEAU, CHARTERED, LEE TURNER, ELDON L. BOISSEAU, HAL D. MELTZER, JOHN L. CARMICHAEL, DEBORAH L. CARNEY, CASEY LAW, CYNTHIA G. BARRETT, INTERSTATE NATIONAL INSURANCE, MAGINNIS AND ASSOCIATES, ROBERT T. STEPHAN, HAROLD S. YOUNGENTOB, H. PHILLIP ELWOOD, ARTHUR E. PALMER, EDWIN D. SMITH, AND JUSTICE B. KING,

Respondents,

Pro Se Petition For Writ of Certiorari To The
United States Court Of Appeals
For The Tenth Circuit

PETITION FOR A WRIT OF CERTIORARI

Robert E. Pitts D.D.S. PRO SE
554 South Oliver
Wichita, Kansas 67218
(316) 685-5591

October 24, 1988

43 pp

QUESTIONS PRESENTED

I.

WAS THE WHOLE CASE TAINTED THROUGH AND THROUGH BY THE KANSAS ATTORNEY GENERAL, ROBERT T. STEPHAN?, AND WERE THERE SERIOUS CONFLICTS OF INTEREST, AND CIVIL RIGHTS VIOLATIONS?

II.

SHOULD THE COURTS HAVE RECEIVED BRIEFS AND FILINGS FROM THE ATTORNEY GENERAL'S OFFICE?

III.

DID THE LOWER COURTS ERR IN ANY WAY AT ALL?

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TABLE OF AUTHORITIES

1.) U.S. Constitution

2.) 28 U.S.C. § 1254 (1)

3.) 28 U.S.C. § 2101 (C)

4.) 18 U.S.C. Sections 1961-1965 (Civil RICO)

5.) 42 U.S.C. Sections 1983 and 1985 (2)

6.) 28 U.S.C. Sections 1331 and 1343

7.) Pendent common law claims: Legal malpractice; Breach of Fiduciary Duty; Breach of Contract; Tortious interference.

8.) Leon G. Smith v. D. Keith Whatcott, No. 84-1337, U.S. Court of Appeals Tenth (10th) Circuit March 25, 1985, page 1098, 757 Federal Reporter, 2d series.

9.) American Bar Association Model Rules of Professional Conduct.

STATEMENT OF CASE

This is a federal civil rights and fraud case filed pursuant to 18 U.S.C. Sections 1961-1965 (Civil RICO) and 42 U.S.C. Sections 1983 and 1985 (2), with jurisdiction arising out of 28 U.S.C. Sections 1331 and 1343. Pendent common law claims were also alleged, as follows: Legal malpractice; breach of fiduciary duty; breach of contract; tortious interference with contractual rights; and, tortious interference with prospective business advantage.

Appellant is a 43-year-old white American male, with a doctorate in dentistry from the University of Missouri at Kansas City School of Dentistry, who resides in Wichita, Kansas. (Doc. No. 1, Complaint, filed October 15, 1884, p.2). Shortly prior to June, 1984, appellant's license to practice dentistry in Kansas was wrongfully and unlawfully

taken, and appellant was involved in extensive litigation on that issue generally from 1982 until May of 1984, appellees Turner & Boisseau, Chartered, Lee Turner, Eldon L. Boisseau, Hal D. Melzer, John L. Carmichael, Deborah L. Carney and Casey Law represented appellant in such litigation relating to efforts to take appellant's dental license. On June 12, 1984, appellant filed a civil rights lawsuit in the United States District Court for the District of Kansas (Case No. 84-4207) making a Constitutional challenge to his said dental license deprivation. That lawsuit is still pending in the tenth circuit. That lawsuit was filed against the Kansas Board of Dental Examiners(a/k/a/ The Kansas Dental Board), Robert L. Stephans, Roger p. Rupp, Aubrey A. Gentry, Norman G. Giebler, John F. Riggs, Jr., James E. Pollem, Cynthia G. Barrett, Wesley F. Park, Harold S. Youngentob and H. Phillip Elwood.

Appellee Cynthia G. Barrett, a member of and secretary to the Kansas Dental Board, a key defendant in Case No. 84-8407, employed Turner & Boisseau, Chartered to represent her in that lawsuit, and Turner & Boisseau, Chartered filed responsive pleadings on Barrett's behalf in case No. 84-4207, including a detailed answer.

Thereafter, and on October 15, 1984, appellant filed Complaint herein. Eventually, after substantial discovery and order of the court below, appellant filed "First Amended Complaint" on July 25, 1986. (Doc. No. 223, "Memorandum and Order", filed July 22, 1986; Doc. No. 224, "First Amended Complaint", filed July 25, 1986). Additional allegations of appellant contained in such Complaint/Amended Complaint included:

a) Kansas Dental Board is a creature of state government, enpowered

to license and punish dentists. (Parenthetically, the Kansas Dental board was dismissed from this action by stipulation filed January 27, 1986-- Doc. No. 207, "Stipulation of Dismissal of Defendant Kansas Dental Board"' filed January 27, 1986).

b) Appellees Interstate National Insurance and Maginnis and Associates are carrier and agent respectively of Barrett, each engaged by and premiums paid by Kansas Dental Board on behalf of Barrett.

c) Appellee Stephan is Attorney General for the State of Kansas, is counsel for the Kansas Dental Board and co-counsel with Turner and Boisseau Chartered for Barrett in Case No. 84-4207, at the behest of and paid by Interstate National Insurance and Maginnis and Associates. Further, appellee Stephen was formerly co-counsel with Turner &

Boisseau, Chartered for appellant in appellant's fight with the Kansas Dental Board, yet later was co-counsel with Turner & Boisseau, Chartered for Barrett against appellant in Case No. 84-4207 in the very same matters wherein Stephan was for appellant earlier, and at all times has been and still is counsel for Barrett and Kansas Dental Board and other defendants in Case No. 84-4207 and this case against appellant in the same matters generally wherein he (Stephen) formerly advised and counseled appellant as a fiduciary and legal advisor to appellant.

d) Appellees Youngentob, Elwood and Palmer are law partners with offices in Topeka, Kansas, employed by the Kansas Dental Board in various capacities, including investigating dentists in Kansas. Youngentob and Elwood in that case. Appellees Smith and King are also law partners in Topeka, Kansas, and they were em-

ployed to represent Youngentob and Elwood in Case No. 84-4207.

e) Interstate National Insurance and Maginnis and Associates employed Turner and Boisseau, Chartered as co-counsel with Stephan for Barrett in Case No 84-4207, by Kansas Dental Board and in collusion with other appellees herein, with full knowledge that Turner and Boisseau, Chartered's enmity against appellant and his counsel on religious grounds, Turner and Boisseau, Chartered having given said appellees considerable evidence of his complete familiarity with both appellant and appellant's counsel, as, for example, in a letter from Lee Turner to Interstate National Insurance dated August 30, 1984, wherein Mr. Turner stated: "In viewing the allegations of the Petition (sic), it is obvious that this is a typical Fred Phelps type lawsuit. Indeed there is a certain kindred of spirit between

Phelps and his client in that both of them profess to be itinerant preachers and in Phelps' case, as I understand it, he gives a great deal of legal income to his own church which, as I understand further, is located in his home. Fred Phelps' civil rights lawsuits are very extensive procedures and usually culminate in an actual trial."

f) When appellant was represented by Turner and Boisseau, Chartered from approximately May, 1982 in his dispute with the defendants in Case No. 84-4207 concerning his dental license, appellant made full revelation and disclosure of all his secrets and confidences together with delivery of all his relevant vital records to Turner and Boisseau, Chartered in connection therewith. All other appellees herein at all relevant times, bound together in an unlawful conspiracy to interfere with appellant's civil rights by

obstructing the due course of justice in Case No. 84-4207, had full knowledge of that fiduciary relationship existing between appellant and Turner and Boisseau, Chartered. In order to gain an unlawful advantage in Case No. 84-4207, in order to further punish appellant for his said religion, and in order to unlawfully deter, punish, hinder, and obstruct appellant in prosecuting Case No. 84-4207, all other appellees herein conspired with Turner and Boisseau, Chartered and others to engage and employ Turner and Boisseau, Chartered to enter and remain in Case No. 84-4207 against appellant, ostensibly as co-counsel with Stephan and others for the defendant Barrett. Turner and Boisseau, Chartered have thus been conspiratorially induced by the other appellees herein to betray the confidences and secrets of appellant, and to work against appellant (their former client) in breach of trust and violation of said

fiduciary relationship in Case No. 84-4207.

g) Additional allegations were made by appellant in the Complaint/Amended Complaint, including substantial allegations of fraud and Civil RICO violations. For a better part of a year after this lawsuit was filed, in addition to normal pretrial discovery and other pretrial procedures, the lower court was barraged with numerous motions seeking dismissal of this lawsuit, to which motions appellant responded. Notwithstanding the filing of such dispositive-type motions, the case proceeded with extensive pretrial discovery, pretrial scheduling hearings, pretrial arguments of discovery and other pretrial procedural motions, pretrial listings of witnesses and exhibits, and so on. There were 242 docket entry filings(requiring 7 court clerk files) over the course of almost two (2) years during pretrial lit-

igations, which gives some idea of the voluminous amount of pretrial work that had been done on this case. A final pretrial conference had been scheduled for November 20, 1986 at 1:30 p.m.

As previously noted, appellant filed his First Amended Complaint on July 25, 1986. (Doc. NO. 224, "First Amended Complaint", filed July 25, 1986). No motions to dismiss were thereafter filed. However, on August 26, 1986, by "Memorandum and Order", the lower court dismissed this action on the face of the Complaint/ Amended Complaint, granting all of appellees' motions to dismiss which had been filed early on in this case's history. Judgement was then entered on August 28, 1986. (Doc. No. 240, "Memorandum and Order", filed August 26, 1986; Doc. No. 241 "Judgement on Decision by the Court Entered by the Clerk", filed August 28, 1986). Notice of appeal was filed by appellant

on September 25, 1986, (Doc. No. 242, "Notice of Appeal", filed September 25, 1986). The Lower Court's decision was then affirmed by the Tenth (10th) Circuit, on July, 5, 1988.

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1988
NO._____

Dr. Robert E. Pitts, PRO SE Petitioner

V.

Turner and Boisseau, Chartered, Et Al.
Respondents.

Petition For Writ Of Certiorari To The United States Court Of Appeals For The Tenth Circuit

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The petitioner, Robert E. Pitts, respectfully prays that a writ of certiorari issue to review the judgement of the United States Court Of Appeals for the Tenth Circuit entered on July 5, 1988.

OPINION BELOW

The Court of Appeals entered its decision affirming the decision of the Federal District Court on July 5, 1988. A copy of the decision is attached as appendix A.

JURISDICTION

The judgement of the United States Court of Appeals for the 10th Circuit was entered on July 5, 1988. This petition was filed within 90 days of that judgement. This court has jurisdiction pursuant to 28 U.S.C. § 1254 (1), and §2101 (C).

Questions Presented For Review

I.

Does the Tainting of the case through and through by the Kansas Attorney General's office (see enclosure appendix B), and the alledged obvious serious conflict of interest by the Attorney General himself of the State of Kansas and his office staff of attorney's, and the ethical violations of the various attorney's involved, of the code of conduct, and the U.S. constitution, and Due Process, and civil rights violations, demands and cries out that this case

(especially because of Smith v. Whatcott)be remanded back to Federal Court for a swift and immediate jury trial, and to a new judge? Yes, we believe it does!, and we ask respectively that whatever other actions or relief the court deems necessary and appropiate be applied.

II.

The petitioner pro se, also asks whether the filings and briefs etc. of the Kansas Attorney General's office should have been entered or received or reviewed, or even considered? (Please use Appendix B), David Plinsky is an attorney in the Attorney General's office!, (see Appendix C).

III.

Please review the full court record in District Court and the Court of Appeals, and look for any and all errors by any Court.

CONCLUSION

The petitioner (pro se) respectfully

asks that an out of State Federal Investigation be commensed immediately! Please apply the correct law, correctly decide the facts and consider all grounds for relief.

The petitioner (pro se) sincerely believes that these are reasons enough to grant the Writ. Thank You.

Dated: October 24, 1988

Respectfully submitted

Robert E Pitts DDS

Robert E. Pitts D.D.S. (PRO SE)
554 South Oliver
Wichita, Kansas 67218
(316) 685-5591

Appendix (A)

PUBLISH

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

86-2442

DR. ROBERT E. PITTS, Plaintiff-Appellant,	
V.	
TURNER AND BOISSEAU, CHARTERED, LEE TURNER, ELDON L. BOISSEAU, HAL D. MELTZER, JOHN L. CARMICHAEL, DEBORAH L. CARNEY, CASEY LAW, CYNTHIA G. BARRETT, INTERSTATE NATIONAL INSURANCE, MAGINNIS AND ASSOCIATES, ROBERT T. STEPHAN, HAROLD S. YOUNGENTOB, H. PHILLIP ELWOOD, ARTHUR E. PALMER EDWIN D. SMITH, and JUSTICE B. KING, Defendants-Appellees	On Appeal From The United States District Court For The District Court For The District of Kansas (D.C. No.84-4342-S)

Opinion Date; Filed July,5, 1988

Submitted on the briefs:

Fred W. Phelps, Jr. and John R. Balhuizen of Phelps--Chartered, Topeka, Kansas, for Plaintiff-Appellant.

Jeffery Jones of Sloan, Listrom, Eisenbarth, Sloan & Glassman,Topeka, Kansas, for De-

fendants-Appellees Turner and Boisseau, Chartered, Lee Turner, Eldon L. Boisseau, Hal D. Meltzer, John L. Carmichael, Deborah L. Carney and Casey Law.

William Scott Hesse, Assistant Attorney General, Topeka, Kansas, for Defendants-Appellees Cynthia G. Barrett and Robert T. Stephan.

Robert J. Perry of Marshall, Hawks, Hendrix, Schenk & Nichols, Topeka, Kansas, for Defendants-Appellees Interstate National Insurance and Maginnis and Associates.

Alan P. Blinzler of Blackwell, Sanders, Matheny, Weary & Lombardi, Overland Park, Kansas, and Williams H. Sanders, Sr. of Blackwell, Sanders, Matheny, Weary & Lombarde, Kansas City, Missouri, for Defendants-Appellees Harold S. Youngentob, H. Phillip Elwood, Arthur E. Palmer, Edwin D. Smith and Justice B. King.

Jerry R. Palmer, Topeka, Kansas, for Defendant-Appellee Cynthia G. Barrett.

Martha Coffman-Gallagher, Lawrence, Kansas, for Defendant-Appellee Casey Law.

Before ANDERSON, SETH and BRORBY, Circuit Judges.

SETH, Circuit Judge.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34 (a); Tenth Cir. R. 34.1.8. The cause is therefore ordered submitted without oral argument.

This is an appeal of the district court's dismissal of appellant's claims under 42 U.S.C. S 1961. et seq., the Racketeer Influenced and Corrupt Organizations Act, and pendent state claims of breach of fiduciary duty, breach of contract, tortious interference with prospective business advantage and negligence.

The facts relevant to this appeal are as follows. Appellant prior to this suit was involved in a proceeding with the KansasDental Board reguarding his license to practice dentistry in Kansas. Appellant in that action was represented

by Turner and Boisseau, Chartered. After his license was revoked appellant filed a civil rights suit, No. 84-4207, against the Kansas Dental Board, its members and its investigators. Turner, who had represented appellant in the revocation proceedings, this time assisted State Attorney General Stephan in representing the Secretary of the Dental Board. Appellant filed this action October 15, 1984 against the law firm of Turner and Boisseau and the members of the firm individually: Lee Turner, Eldon L. Boisseau, Hal D. Meltzer, John L. Carmichael, Deborah L. Carney, and Casey Law; the Kansas Dental Board; Interstate National Insurance and Maginnis and Associates, carrier and agent of the Board; Robert T, Stephan, State Attorney General who was co-counsel in No. 84-4207;Harold S. Youngentob and H. Phillip Elwood, Board investigators;

and Arthur E. Palmer, Edwin D. Smith and Justice B. King, attorneys for the investigators in No. 84-4207. In this action appellant contends the defendants who were aware of the fiduciary relationship between appellant and Turner, conspired with Turner and others to get him to come to work for them and share information he learned in the revocation proceedings. As a result of this, appellant alleges his civil rights have been violated pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1985 (2) and their actions violated RICO. Each defendant filed a motion to dismiss. Appellant filed an amended complaint July 25, 1986. On August 26, 1986 the district court entered its order dismissing appellant's amended complaint and his pendent state law claims. This appeal followed.

In Shaw v. Valdez, 819 F.2d 965, 968 (10th Cir.), we stated what the standard of review is for dismissals pursuant to

Fed. R. Civ. P.12(b) (6):

> "In reviewing a dismissal for for failure to state a claim, we must accept as true the plaintiff's well-pleaded factual allegations and all reasonable inferences must be indulged in favor of the plaintiff. Dismissal is appropriate only if 'it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.'" (Citations omitted)

Appellant contends the trial court erred in dismissing his claim under 18U.S.C. § 1961, et seq. or the Racketeer Influenced and Corrupt Organizations Act. In Torwest DBC, Inc. v. Dick, 810 F.2d 925, 927-929 (10th Cir.), we discussed what a plaintiff must plead in order to establish a RICO violation:

> "A violation of section 1962 (c) thus 'requires (1) conduct (2) of and enterprise (3) through a pattern (4) of racketeering activity.' Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479, 105 S. Ct. 3275, 3285, 87 L. Ed. 2d 346 (1985). RICO defines racketeering activity as, inter alia, any act that is indictable under 18 U.S.C. § 1341 (mail fraud) or18 U.S.C. § 1343 (wire fraud).

> See 18 U.S.C. § 1961 (1) (B). RICO also states that a '"pattern of racketeering activity" requires at least two acts of racketeering activity.' 18 U.S. U.S.C. § 1961 (5).
>
> . . . .
>
> ". . . [T]o establish a RICO pattern, a plaintiff must also demonstrate continuity, that is, 'the threat of continuing activity.' Sedima, 105 S. Ct. at 3285 n. 14. This element is derived from RICO'S legislative history, which indicates that RICO does not apply to 'sporadic activity' or to the 'isolated offender'. Id.
>
> "The continuity requirement has been the source of considerable difficulty. Courts generally agree that to make an adequate showing of continuity under Sedima, a plaintiff must demonstrate some facts from which at least a threat of ongoing illegal conduct may be inferred. A scheme to achieve a single discrete objective does not in and of itself create a threat of ongoing activity, even when that goal is pursued by multiple illegal acts, because the scheme ends when the purpose is accomplished."

The trial court in the instant case found

> "that there are no specific allegations to establish that

> more than one scheme to defraud the plaintiff was involved. To the contrary, the court finds that the basis of plaintiff's RICO claim is based on action which revolves upon the Kansas Dental Board's revocation of plaintiff's dental license. In the present action, plaintiff alleges that defendants Stephan and Turner and other defendants schemed to defraud plaintiff of his confidences and secrets by representing that such confidences and secrets would not be revealed to others or be used against him. The court finds that plaintiff's complaint only states one scheme, even though it alleges a general statement that many acts transpired to carry out this scheme."

After examining appellant's amended complaint and making all resonable inferences in favor of appellant we agree that there is only one scheme alleged and this alone does not establish a RICO "pattern" which is required to support a RICO claim.

In addition to dismissing the RICO claim, the trial court dismissed appellant's 42U.S.C. § 1985 (2) claim. 42U.S.C. § 1985

(2) provides:

> "If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror. . . "

After reviewing appellant's complaint we agree withthe trial court's finding that appellant did not state a claim under § 1985 (2). Appellant's complaint fails to allege how appellees conspired to keep him from testifying in court; or how they injured his person or property on account of his having attended or testified in court or how they influenced the verdict,

presentment of indictment of any grand or petit juror.

Appellant also maintains the trial court erred in dismissing his 42 U.S.C. § 1983 claim. To state a claim for relief under section 1983 a plaintiff must show that he has been deprived of any rights, privileges, or immunities secured by the Constitution and laws and that the defendant acted under color of state law. In Brown v. Chaffee, 612 F.2d 497, 501 (10th Cir.) (quoting Monroe v. Pape, 365 U.S. 167, 184), we held that:

> "Acting under color of state law as required by section 1983 is defined as the '[m]isuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law.'"

After viewing the pleadings in the light most favorable to appellant, we are unable to ascertain how any of the appellees acted under color of state law. We, there-

fore, affirm the trial court's dismissal of appellant's section 1983 claim.

Finally, appellant maintains the lower court erred in dismissing his pendent state law claims of breach of fiduciary, duty, breach of contract, tortious interference with contractual rights and prospective business advantage, and negligence. There is no basis for diversity jurisdiction in the instant case nor are there any remaining federal causes of action. In the absence of either federal question or diversity jurisdiction we do not find the trial court abused its discretion in dismissing the pendent state claims.

AFFIRMED.

Appendix (B)

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

ROBERT E. PITTS, Plaintiff/Appellant,	)	
V.	)	No. 87-2401
KANSAS BOARD OF DENTAL EXAMINERS; ROGER P. RUPP; AUBREY A. GENTRY; NORMAN G. GIEBLER; JOHN F. RIGGS JR.; ROBERT L. STEPHENS; JAMES E. POLLOM; CYNTHIA G. BARRETT; F. WESLEY PARK; HAROLD S. YOUNGEN- TOB and H. PHILLIP ELWOOD) Defendants/appellees)	)	Lower Docket No. 84-4207

Motion To Amend

Comes now, Robert E. Pitts, plaintiff/appellant, and I respectfully move that the Court, on the above captioned matter, allow me to amend my motion to remove the Kansas Attorney General's office and all of its attorneys with new additional information and to answer the response of the Kansas Attorney General's office.

This case does indeed have its own set of peculiar facts. I refer the Court to my deposition and exhibits thereof in case #84-4207, and also in case #84-4342, both

Lower Docket numbers (#). I believe both cases are tainted through and through by alleged serious Ethical Violations by the Attorney General himself and the attorneys in the Attorney General's office for the great State of Kansas. Many of the facts to support the motion are contained in my depositions, especially the deposition in case #84-4342, Tenth Circuit case #84-2442.

The nature of the Conflict of Interest is that Attorney General Robert T. Stephan, as acting Attorney and as an attorney representative, per the Preamble of the American Bar Association; A Lawyer's Responsibilities, Robert T. Stephan acted as my attorney, as an advisor and evaluator pertaining to my legal problems with the Kansas State Dental Board, starting in the spring of 1982 (please see enclosed new evidence). My cases have been "tainted" because of Rule 1.7-B whereby the Attorney

General was a past "friend" of me personally, and thereby should not be representing even the Dental Board et al because of his own personal interest, thereby his loyalty is impaired. Under Rule 1.7[15],I believe we can call in question the fair or efficient administration of justice in both of my Cases. I had numerous telephone conversations with Attorney General Stephan, and the telephone company records will reflect that and be my evidence. I also mailed voluminous personal confidences and secrets to the Attorney General at his Attorney General's office where all the Attorney General's attorneys work, and they still have access to that information (please see Rule 1.8).

Under Rule 1.9 (A) and (B), the Attorney General's professional conduct is again called into question. I was a previous client of the Attorney General, and, under Rule 1.9; Comment and Model Code Comparison, the Attorney

General did not avoid even the appearance of impropriety.

As for the other attorneys in the Attorney General's office, I believe that Rule 1.10(A) is the one of the rules that apply. There could be other rules that apply also, but this is up to the expertise of the Court, since I am not an attorney.

Whereas, both of my Court cases are separate, they are also interconnected. The Attorney General, Robert T. Stephan, and Attorney David Plinsky in the Attorney General's office, the secretary for the Attorney General, and the Attorney General's ex-wife will all be called as witnesses in both Court cases. David Plinsky and the Attorney General both do have personal knowledge pertaining to my allegations of religious discrimination, and they will both be called to District Court to a new judge.

I do argue strongly that I was a

former client of Attorney General Stephan, and he was also a former judge on a real estate case of mine in District Court also. I am entitled to have all of my confidences and secrets preserved which the Attorney General Stephan and his subordinate attorneys are privy to and have been privy to for several years now. I believe ethical violations have occurred and are now occurring. I also believe that all attorneys involved in both cases were aware that ethical violations occurred and did not report them!

I believe my cases have been seriously tainted and should be hopefully and respectfully remanded to a new judge in District Court. I respectfully ask the Court to investigate this whole matter expeditiously by an out-of-state investigative authority.

Respectfully submitted,

Robert E. Pitts
804 South Oliver
Wichita, Kansas 67218

By Robert E Pitts DDS

Robert E. Pitts, D.D.S.,
Pro Se

CERTIFICATE OF SERVICE

This is to certify that a copy of this Motion to Amend was served by depositing same in the U.S. mail, 1st class postage prepaid, this _____day of _____, 1988, to opposing counsel of record.

_____

Robert E. Pitts D.D.S.

Appendix C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DR. ROBERT E. PITTS, Plaintiff, -VS- TURNER AND BOISSEAU, CHARTERED, et al., Defendants.	Case No. 84-4342

PLAINTIFF'S WITNESS AND EXHIBIT LIST

Comes now plaintiff and incorporates by reference his list of witnesses and exhibits filed previously herein on August 21, 1985, and supplements it as follows:

WITNESSES

1. Betty Stephen, Wichita, Kansas.
2. Defendants Stephan's personal secretary during the years 1982 to 1984.
3. Vern Miller, 1202 North Emporia Wichita, Kansas 67214.
4. Judy Stromberg, Kansas City, Missouri.

5. David Plinsky, 1028 Western, Topeka, Kansas.

6. R. Lansdowne, D.D.S., 2516 E. Central, Wichita, Kansas.

7. Richard Peppard, D.D.S. 8927 W. Central, Wichita, Kansas.

8. Ron Riley, D.D.S.,1431 S. Bluffview Drive, Wichita, Kansas.

9. Beau Williams, 1601 N.W. Expressway, Oklahoma City, Oklahoma.

10. Connie Scott, Topeka, Kansas.

11. Ed Hall D.D.S., 3311 E. Murdock, Wichita, Kansas.

12. W. Terrence Kilroy, Commerce Bank Bldg., Kansas City, Missouri.

13. C.A. Raben, D.D.S., St. Francis Medical Bldg., Suite 410.

14. Jack Kilroy, Kansas City, Missouri.

15. Ed Nazar, 331 E. Douglas, Wichita, Kansas.

16. Dr. Louis Morgan, 8030 E. E. Kellogg, Wichita, Kansas.

17. All persons listed in plaintiff's witness and exhibit lists filed in Pitts v. Kansas Board of Dental Examiners, et al., Case No. 84-4207-R.

Exhibits

1. All exhibits listed in plaintiff's witness and exhibit lists filed in Pitts v. Kansas Board of Dental Examiners, et al., Case No. 84-4207-R.

Plaintiff reserves the right to amend the foregoing by making such additions or deletions as the facts and law of the case

so dicate.

PHELPS-CHARTERED
1414 South Topeka Boulevard
Post Office Box 1886
Topeka, Kansas 66601
(913) 233-4162

By:

BETTY JOAN PHELPHS
Attorney for Plaintiff.

Certificate of Service:

I hereby certify that copy of the foregoing "Plaintiff's Witness and Exhibit List" was regularly mailed this 1st day of August, 1986, to:

Thomas L. Theis, 714 Capitol Federal Building, Topeka, Kansas 66603;

Bruce E. Miller, Office of the Attorney General, Kansas Judicial Center, 2nd Floor, Topeka, Kansas 66612;

Robert J. Perry, 210 Commerce Bank Building, 31st and Topeka Boulevard, Topeka, Kansas 66611;

Michaela Nicolarsen, 40 Corporate Woods-Suite 210, 1401 Indian Creek Parkway, Overland Park, Kansas 66225-5446;

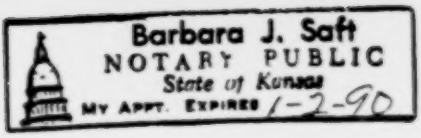
William H. Sanders, Five Crown Center-Suite 600, 2480 Pershing Road, Kansas City, Missouri 64108;

Martha Coffman-Gallagher, 7 West Eleventh, P.O. Box 1392, Larwence, Kansas 66044-5892; and

Jerry R. Palmer, Columbian Building-Suite 102, 112 West 6th Street, Topeka, Kansas 66603.

PHELPS-CHARTERED

By:
BETTY JOAN PHELPHS
Attorneys for Plaintiff.



Subscribed and sworn to before me this

25TH day of October, 1988.

Barbara J. Saft

Notary Public in and for Sedgwick County, Kansas.

I, Robert E. Pitts D.D.S., (appellant/ petitioner) hereby certify that on (PRO SE)

October 27, 1988,

I mailed a copy of the foregoing Writ Of Certiorari by United States Mail, postage prepaid, to Attorney's of Record

(defendant/respondent or attorney therefor) at Their last known address.

Dated October 27, , 19 88.

Robert E Pitts DDS

Signature

554 South Oliver
Wichita, Kansas 67218

Address